TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule
LSA Document #22-350(F)

DIGEST

Amends 312 IAC 1-1-26 and 312 IAC 6-7-5 to remove all references to the Lake Michigan shoreline at 581.5 due to codification of IC 14-26-2.1-2. Effective 30 days after filing with the Publisher.

312 IAC 1-1-26; 312 IAC 6-7-5

SECTION 1. 312 IAC 1-1-26 IS AMENDED TO READ AS FOLLOWS:

312 IAC 1-1-26 "Ordinary high watermark" defined

Authority: IC 14-10-2-4
Affected: IC 14-26-2.1-2; IC 25

Sec. 26. "Ordinary high watermark" means the ~~following:~~
~~(1) The~~ line on the shore of a waterway established by the fluctuations of water and indicated by physical characteristics. Examples of these physical characteristics include the following:
~~(A)~~ **(1)** A clear and natural line impressed on the bank.
~~(B)~~ **(2)** Shelving.
~~(C)~~ **(3)** Changes in character of the soil.
~~(D)~~ **(4)** The destruction of terrestrial vegetation.
~~(E)~~ **(5)** The presence of litter or debris.
~~(2) Notwithstanding subdivision (1), the shore of Lake Michigan at five hundred eighty-one and five-tenths (581.5) feet I.G.L.D., 1985 (five hundred eighty-two and two hundred fifty-two thousandths (582.252) feet N.G.V.D., 1929).~~

(Natural Resources Commission; 312 IAC 1-1-26; filed Dec 1, 1995, 10:00 a.m.: 19 IR 659; readopted filed May 8, 2001, 3:51 p.m.: 24 IR 2895; readopted filed May 29, 2007, 9:42 a.m.: 20070613-IR-312070111RFA; readopted filed Sep 19, 2013, 10:13 a.m.: 20131016-IR-312130169RFA; readopted filed Mar 26, 2019, 3:40 p.m.: 20190424-IR-312190006RFA; filed Apr 24, 2023, 10:29 a.m.: 20230524-IR-312220350FRA)

SECTION 2. 312 IAC 6-7-5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 6-7-5 Factors tending to support a finding an emergency exists

Authority: IC 14-10-2-4; IC 14-28-3-2; IC 14-29-1-8
Affected: IC 14-26-2.1-2; IC 14-28; IC 14-29

Sec. 5. Factors tending to support a finding emergency conditions are present under section 3 of this rule include the following:
(1) The lake level is rising.
(2) The current lake level is higher than the ordinary high watermark. ~~(five hundred eighty-one and five-tenths (581.5) feet) or lower than five hundred seventy-eight (578) feet I.G.L.D., 1985.~~
(3) The failed or threatened erosion control structure is in close proximity to the subject property.
(4) The content, design, or position of an erosion control structure makes its accelerated deterioration or collapse more likely.
(5) The existing angle of repose of a bluff face or the bluff height make continued slumping probable.
(6) The risk of harm to public safety or major damage to real property is aggravated by external circumstances.
(7) If immediate action is not taken, persons other than the person seeking to perform emergency remedial action are also likely to suffer harm.

(Natural Resources Commission; 312 IAC 6-7-5; filed Jan 23, 2001, 10:17 a.m.: 24 IR 1611; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Sep 28, 2009, 11:57 a.m.: 20091021-IR-312090152RFA; readopted filed Nov 24, 2015, 4:05 p.m.: 20151223-IR-312150295RFA; readopted filed Sep 23, 2021, 9:42 a.m.: 20211020-IR-312210342RFA; filed Apr 24, 2023, 10:29 a.m.: 20230524-IR-312220350FRA)

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